

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	4:05CR3052
v.)	
)	
RICHARD T. RICHARDSON,)	
)	MEMORANDUM AND ORDER
Defendant.)	
)	

Defendant has filed a motion to suppress evidence allegedly recovered in a warrant search of his property, which was based upon information allegedly recovered in a prior warrantless search. Defendant challenges the first search, stating that were it not for the unconstitutional first search, the application for the second search would not have been sufficient to establish probable cause for issuance of the warrant. However, no evidence was filed with the motion, and thus it is not possible for the court to conduct the inquiry necessary under Franks v. Delaware, 438 U.S. 154 (1978). Such an inquiry must be done before any evidentiary hearing can be scheduled. (On the anticipation that a hearing will in fact be set, counsel are advised to keep the previously established hearing time, June 7, 2005 at 2:00 p.m. reserved).

IT THEREFORE HEREBY IS ORDERED,

Defendant shall file supporting evidence including the warrant application and the search warrant issued as a result, in the absence of which a recommendation will be made that the motion to suppress be denied.

DATED this 31st day of May, 2005.

BY THE COURT:

s/ *David L. Piester*

David L. Piester
United States Magistrate Judge